

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| DAARON SHEARS, |) | |
| Plaintiff, |) | |
| |) | C.A. No. 22-224 Erie |
| v. |) | |
| |) | District Judge Susan Paradise Baxter |
| C.O. BRANDON BROWN, et al., |) | Magistrate Judge Patricia L. Dodge |
| Defendants. |) | |

MEMORANDUM ORDER

Plaintiff Daaron Shears, an inmate formerly incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”),¹ initiated this civil rights action by filing a *pro se* complaint, pursuant to 42 U.S.C. § 1983. This matter was referred to United States Magistrate Judge Patricia L. Dodge for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff subsequently filed an amended complaint on November 16, 2023 [ECF No. 44], which is the operative pleading in this case. Named as Defendants are five staff members at SCI-Forest: C.O. Brandon Brown, C.O. Gallagher, Sgt. Smouse, Lt. Haggerty, and C.O. Guarnieri. Plaintiff alleges claims of excessive force and deliberate indifference to his health and safety against Defendants Gallagher, Smouse, Haggerty, and Guarnieri, arising from the deployment of Oleoresin Capsicum (“OC”) spray into his cell, and claims that Defendant Brown failed to intervene, all in violation of his rights under the eighth amendment to the United States

¹
Plaintiff is presently incarcerated at the State Correctional Institution at Fayette in LaBelle, Pennsylvania.

Constitution.

Following discovery, Defendants filed a motion for summary judgment on February 15, 2024 [ECF No. 57], to which Plaintiff filed a response and brief in opposition [ECF Nos. 73, 75].

On May 24, 2024, Judge Dodge issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Defendants' motion for summary judgment be granted on all claims in this case. [ECF No. 78]. In particular, Judge Dodge concluded that Plaintiff has failed to establish that excessive force was used or that he suffered any serious injuries. (*Id.* at p. 10). Objections to the R&R were due to be filed by June 10, 2024; however, no timely objections have been received.

Thus, after *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 14th day of June, 2024;

IT IS HEREBY ORDERED that Defendants' motion for summary judgment [ECF No. 57] is GRANTED, and judgment will be entered in favor of Defendants and against Plaintiff on all claims in this case. The report and recommendation of Magistrate Judge Dodge, issued May 24, 2024 [ECF No. 78], is adopted as the opinion of the court.

The Clerk is directed to mark this case closed


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Patricia L. Dodge
United States Magistrate Judge